

**AMENDMENTS TO THE DRAWINGS:**

Applicants submit herewith 5 replacement sheets of new drawings. The amendments to the drawings are as follows:

Applicants have amended FIGURE 5 to include label "PRIOR ART" as recommended by the Office Action.

Applicants now respectively request the revised formal drawings of FIGURES 1-5 be entered for Application Serial No. 10/574,020, filed December 18, 2006.

## **REMARKS**

The Office Action mailed September 9, 2008 has been received and carefully reviewed. Reconsideration of the pending claims is respectfully requested in view of the following remarks.

### **Status of Claims**

Claims 1-5, 7, 9-11, 13-16, 18 and 20 were rejected.

Claims 6, 8, 12, 17 and 19 were objected to.

Claims 21 and 22 have been newly added.

### **The Office Action**

Claims 1 and 3 were rejected under 35 U.S.C. §102(b) as being anticipated by Dulin et al., US Patent No. 6,118,201 (hereinafter "Dulin").

Claims 1-3 were rejected under 35 U.S.C. §102(a/e) as being anticipated by Tezuka et al., US Patent Publication No. 2004/0046627 A1, (hereinafter "Tezuka").

Claims 4 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tezuka in view of Dulin.

Claims 5, 7, 9, 16, 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tezuka in view of Yumiki et al., US Patent No. 5,347,256, (hereinafter "Yumiki").

Claims 5, 7 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dulin in view of Yumiki.

Claims 10 and 13-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tezuka.

### **Allowable Subject Matter**

Claims 6, 8, 12, 17 and 19 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Thus, claim 6 has been rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 12 has been rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Rejected Claims 1-5, 7, 9-11, 13-16, 18 and 20

Claims 1-5, 7, 10-11, 13-16 have been canceled without prejudice and disclaimer. Claim 9 has been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 20 has been amended to depend from newly independent claim 9.

Claims 9 and 20

Newly amended independent claim 9 recites a shielding structure for a brushless type rotation detector having a signal modulation section for modulation an output voltage induced by an excitation voltage according to a rotation angle to be detected, and a case that houses the signal modulation section, characterized in that the shielding structure includes a rotor magnetic shielding section that can provide a magnetic shield between a rotor iron core and a rotor transformer that constitute the modulation section, characterized in that the shielding structure is a ring-shaped structure including the rotor magnetic shielding section integrally formed with the rotor, and the rotor magnetic shielding section has the same radial width as the rotor transformer and the rotor iron core, characterized in that the rotor magnetic shielding section has a radial width capable of also providing a shield between the stator transformer and the stator iron core.

Such a shielding structure for a brushless type rotation detector is not shown nor suggested by Dulin in view of Yumiki.

The proposed combination is improper because there is no motivation for combining the references of Dulin and Yumiki. The burden is on the Patent and Trademark Office to establish a prima facie case of obviousness. MPEP §2142. In so doing, the Examiner is required to make a factual determination as set forth in Graham v. John Deere Co., 383 U.S. 1 (1966), and to provide a reason why one of ordinary skill in the art would have been led to modify the prior art to arrive at the claimed invention. While the “teaching, suggestion, or motivation: test (TSM test) has been found too rigid

to be universally applied, there must nevertheless be “an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” KSR Intern. Co. v. Teleflex, Inc., 127 S.Ct. 1727, 1740-41 (U.S. 2007).

As acknowledged on page 8 of the Office Action, Dulin does not disclose a rotor magnetic shielding section. The Office Action points to column 4 line 25 to 31 and Figure 2 of Yumiki as teaching a rotary transformer including rotary cores 1a, 1b of ferromagnetic material and including a member 3 of electrically conductive material connected to common ground. The electrically conductive material 3 functions as a magnetic shield since, by virtue of a common ground connection, it completely cuts off magnetic flux paths 9 between the cores that would otherwise result in crosstalk between the two signals in the two cores (column 5, lines 10-24 of Yumiki). The rotor magnetic shielding section of Yumiki, is used in a brush type system, not a brushless type system. Moreover, a skilled artisan would not add a magnetic shielding section to Dulin, thereby increasing manufacturing costs. Further in this regard, Dulin teaches away from adding components which would raise manufacturing costs (See Background of the Invention of Dulin, lines 44-46) stating “This must be accomplished by a relatively simple structure which is economical to manufacture.” Thus, the person of ordinary skill in the art would not be motivated or have any reason to add a magnetic shield section to Dulin, and Dulin teaches away from any such combination with Yumiki. Consequently, the proposed combination does not render obvious the shielding structure for a brushless type rotation detector of claim 9.

#### Objected Claims 6, 8, 12, 17, and 19

Claims 6 and 12 have been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, claim 8 has been amended replacing height with radial width per recommendation of the Examiner. Claim 18 have been amended to depend from newly independent claim 12.

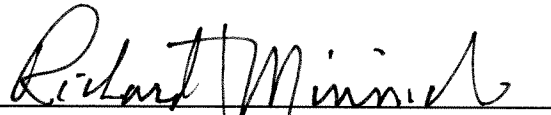
### **CONCLUSION**

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 6-9, 12, 17-22) are now in condition for allowance. No further search or examination is believed to be required.

If the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard J. Minnich, at telephone number 216-363-9000.

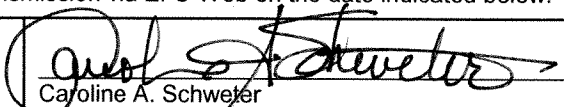
Respectfully submitted,

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January 8, 2009  
Date

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I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
Date: January 8, 2009	 Caroline A. Schweyer

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